

____FIRST PUBLISHED IN THE WICHITA EAGLE ON AUGUST 24, 2012____

ORDINANCE NO. 49-329

AN ORDINANCE EXEMPTING PROPERTY FROM AD VALOREM TAXATION FOR ECONOMIC DEVELOPMENT PURPOSES PURSUANT TO ARTICLE 11, SECTION 13, OF THE KANSAS CONSTITUTION; PROVIDING THE TERMS AND CONDITIONS FOR AD VALOREM TAX EXEMPTION; AND DESCRIBING THE PROPERTY OF A BOX 4 U, LLC, SO EXEMPTED.

WHEREAS, Article 11, Section 13, of the Kansas Constitution provides that the governing body of the City may, by Ordinance, exempt from all ad valorem taxation all or any portion of the appraised value of certain property meeting the requirements of the constitutional provision; and

WHEREAS, the City of Wichita has adopted an Economic Development Incentive Policy by which the City will consider granting tax exemptions upon a clear and factual showing of direct economic benefit including the creation of additional jobs or the upgrading of existing jobs and the stimulation of additional private investment; and

WHEREAS, A Box 4 U, LLC, requests an ad valorem tax exemption on a proposed expansion project of 100% for a five-plus-five year term on the acquisition and renovation of an existing building and certain pieces of equipment; and

WHEREAS, A Box 4 U, LLC has operated within the City for more than twenty years as a manufacturer and warehousing and distribution company; and

WHEREAS, A Box 4 U, LLC, proposes a \$5,310,000 expansion by the acquisition, renovation and equipping of a building located at 401 W. 47th Street South in southwest Wichita; and

WHEREAS, the City Council of the City of Wichita has reviewed the application and supporting documentation supplied by A Box 4 U, LLC, has reviewed the impact statements provided by Staff, and the Cost-Benefit Analysis by the Wichita State University and has conducted a public hearing on such application on August 14, 2012; and

WHEREAS, the City Council of the City of Wichita has found and determined:

1. A Box 4 U, LLC is an existing business located in Wichita, Kansas, and intends to expand its business by acquisition, renovation and equipping of an existing building.

2. The acquisition, renovation and equipping for which exemption is given occurred after August 1, 2012. No exemption will be given for acquisition, renovation and equipping which occurred before that date.

3. Such acquisition, renovation and equipping is to be used exclusively for manufacturing and warehousing and distribution of articles of commerce.

4. By such expansion, A Box 4 U, LLC will retain 46 employees and create new employment for 32 employees within five years after the start of the project and a total of 50 new employees within ten years.

5. Tax exemption will be given only for the acquisition, renovation and equipping of an existing building.

6. The property on which exemption is given will meet the requirements of the Kansas Constitution and the City of Wichita's Economic Development Incentive Policy.

7. Such ad valorem tax exemption is in the public interest providing for economic growth and benefit including the creation of jobs and stimulating additional private investment.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS,

1. The City Council of the City of Wichita, Kansas hereby makes a factual determination that an ad valorem tax exemption of the type requested by A Box 4 U, LLC is required to retain jobs in the State of Kansas, and that the property to be exempted is to be used exclusively for manufacturing and warehousing and distribution of articles of commerce.

2. A Box 4 U, LLC is hereby granted an ad valorem tax exemption of 100% for a five-year term on the acquisition, renovation and equipping of an existing building and 100% for a second five years, subject to approval by the then current governing body, located within the Wichita City limits at 401 W. 47th Street South in southwest Wichita, at an estimated cost of \$5,310,000. Such exemption is to begin in the calendar year after the calendar year in which the expansion is completed, and may be terminated early (and A Box 4 U, LLC may be required to repay amounts previously abated), in the event of any failure by A Box 4 U, LLC, to perform its obligations under the Economic Development Incentive Agreement it has executed with the City.

3. The Economic Development Incentive Agreement between the City of Wichita and A Box 4 U, LLC is hereby approved.

4. The Office of Urban Development shall be responsible for monitoring the performance of A Box 4 U, LLC and shall provide annual reports on such performance.

5. Such exemption is subject to verification that the level of employment at the time of the completion of the project is at least equal to the level of employment as stated in A Box 4 U, LLC's written request for ad valorem tax exemptions as presented to the City Council and to administrative staff and dated July 19, 2012 and as stated in A Box 4 U, LLC's annually approved EEO/AA Plan.

6. Such exemption may hereafter be withdrawn by the City Council upon a finding that A Box 4 U, LLC no longer is entitled to such exemption in accordance with the Economic Development Incentive Agreement, which A Box 4 U, LLC has executed with the City.

7. The City Council may, at its discretion, require A Box 4 U, LLC to return all funds exempted if there is a failure to meet the terms and conditions of the Economic Development Incentive Agreement which A Box 4 U, LLC has executed with the City.

8. Upon finding that A Box 4 U, LLC has failed to meet its obligations under the Economic Development Incentive Agreement, the City Council shall require the repayment of all prior amounts of taxes that have been exempted and shall withhold any future exemption of taxes on A Box 4 U, LLC's expansion project. All repayments shall be redistributed to the local taxing authorities at the proper taxing rates.

9. This Ordinance shall be in full force and effect from and after its passage and publication in the official City paper.

Passed by the governing body of the City of Wichita, Kansas this 21st day of August, 2012.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf, City Attorney